

The Camden Journal

VOLUME XXV.

CAMDEN, S. C., FRIDAY MORNING, JANUARY 18, 1867

PUBLISHED WEEKLY BY
THOMAS W. PEGUES.

TERMS OF SUBSCRIPTION.

Three Dollars a year Cash—Four Dollars if payment is delayed three months.

RATES OF ADVERTISING, PER SQUARE.

For the first insertion, \$1.50; for the second, \$1.00; for the third, 75 cents; for each subsequent insertion, 50 cents.

Semi-monthly, Monthly and Quarterly advertisements, \$1.50 each insertion.

The space occupied by ten lines (solid, of this size type) constitutes a square.

Payment is required in advance from transient advertisers, and as soon as the work is done from permanent ones.

REMOVAL.

THE subscriber would respectfully inform his friends, customers and the public generally, that he has removed his TIN ESTABLISHMENT, to the stand two (2) doors below the store of Mr. R. M. Kennedy, where he keeps constantly on hand, of his own manufacture, a complete assortment of

TIN WARE.

at wholesale and retail, at prices which cannot fail to give satisfaction.

He will attend to all orders for Roofing and Guttering.

Lard and oil cans, Stove-pipes, &c., made to order at short notice.

Repairing done at all times and on reasonable terms.

He hopes by strict attention to business, to merit the patronage so liberally bestowed on him heretofore. J. R. GOODALE.

Dec. 7—1f.

For Sale.

THE subscriber offers for sale, his HOUSE and LOT on Lytleton street, Kirkwood. The House contains ten (10) upright rooms. The Lot measures on Lytleton street four hundred and sixteen (416) feet, and two hundred and sixty one (261) in depth.

For terms, apply to JAMES JONES. S. T. ROBINSON.

Dec. 28.

Notice.

ALL persons indebted to the subscriber, either by note or account, are hereby notified that unless some satisfactory arrangement be made, previous to the 10th day of January next, they will be placed in the hands of an Attorney for collection.

The subscriber, on account of ill health, is compelled to close his business. P. H. MOORE.

Dec. 28.

LABORERS WANTED.

75 PRIME HANDS, to work on the McRae Plantation adjoining the estate of Mr. Thomas Lang—one of the richest and most productive plantations on the Wateree River. For information, or to make contracts, apply to John Caney, on his plantation, or to A. M. Kennedy, Camden.

JOHN CANEY,
J. D. KENNEDY.

Nov. 16.

NOTICE.

THE undersigned is prepared to furnish BAGGING and ROPE, and pay the Revenue Tax on all COTTON consigned to his correspondents in Charleston, and pay over nett proceeds here free of commission.

Oct. 12—5m. C. BELL.

Special Notice.

ALL persons indebted to the late firm of A. MATHESON & CO., either by note or open account, are requested to come forward and effect a settlement, or the papers will be placed in suit for immediate collection.

C. MATHESON & CO.,
In liquidation.

Oct. 12—2m.

J. K. WITHERSPOON, AUCTIONEER.

RESPECTFULLY informs his friends and the public generally, that he continues the sale of all kinds of property at Auction. He will attend sales any where in Kershaw District, and his charges shall be as low as it is possible. His services shall be satisfactory or no charge will be made.

Dec. 21

J. S. MERONEY, Auctioneer.

WILL attend in person to the selling of a species of property at public sale, either in Camden or surrounding country. Persons having property of any description to dispose of, and wish my services, will be waited on by giving me timely notice. My charges for services rendered will be in keeping with the times.

Oct. 26.—1f.

MERCHANT'S HOTEL, CORNER OF KING AND SOCIETY STS.

Charleston, So. Ca.,
SAVAGE & ENSIGN, Proprietors.
JESSIE L. SAVAGE. EDWIN D. ENSIGN.
Nov. 9. 3m

PAVILION HOTEL, CHARLESTON, S. C.

THE above POPULAR HOTEL is open for the accommodation of the Travelling Public. Board per day, 50c.
Mrs. H. L. BUTTERFIELD,
Proprietress.
A. BUTTERFIELD, Superintendent.
Nov. 9. 2m

Estate Notice.

ALL persons having demands against the estate of the late Wm. McKAIN, will present the same, duly attested to JAS. M. DAVIS, my Attorney, and all persons in any way indebted to said estate will make immediate payment to him.

MARY E. SHAW,
Adm'r.
Oct. 19—1f.

FRESH GARDEN SEEDS and
Onion Sets, of all kinds. For sale by
HODGSON & DUNLAP.

We find in the *National Intelligencer*, a report in full, of the Opinion of the Supreme Court on MILLIGAN'S case, and that of the dissenting Chief Justice and three Justices (WAYNE, SWAYNE and MINNEN) who concurred with him. The two occupy in close print, rather more than six of the wide columns of that large paper. LAMDEN P. MILLIGAN, a citizen of Indiana, never engaged in the military or naval service of the United States, was arrested at his home in that State on the 1st of October, 1864, by order of Gen. A. P. Sibley, military commandant of that military district, and kept in close confinement ever since.

On the 27th of October, 1864, he was brought to Camden, and the sentence of the military commission was changed; and the sentence was to be executed on the 19th of November, 1864. On the 2nd of January, 1865, the Circuit Court of the United States, for Indiana, was convened, and a grand jury to inquire into the laws of the United States had been selected, and to make presentments, and the Court adjourned on the 27th, previously discharging the grand jury, without indictment or presentment against MILLIGAN, who, therefore, on the 10th of May, 1865, presented his petition to the Circuit Court to be discharged from his alleged unlawful imprisonment, on the ground that the Military Commission had no jurisdiction to try him under any charge whatever, as he was a citizen of the United States, and of the State of Indiana, and as such, entitled, under the Constitution of the United States to trial by jury, and praying that he might, under the act of Congress, approved March 3rd 1863, be brought before the Court, and either turned over to the proper tribunal to be proceeded against according to the law of the land, or else released from custody altogether. The judges of the Circuit Court disagreed on three questions, which were certified to the Supreme Court:

1st. On the facts stated in such petition and exhibits, ought the writ of habeas corpus to be issued?

2nd. On the facts stated, ought the said LAMDEN P. MILLIGAN, to be discharged as in said petition prayed?

3d. Whether upon the facts stated in said petition and exhibit, the said Military Commission mentioned therein, had jurisdiction legally, to try and sentence said MILLIGAN, in manner and form as in said petition and exhibits is stated?

The decision upon the third of these inquiries is of transcendent importance, and we shall therefore make no apology for laying before our readers in extenso, the unanswerable argument on which it is founded.

"The controlling question in the case is this: Upon the facts stated in Milligan's petition, and the exhibits filed, had the military commission mentioned in it jurisdiction legally to try and sentence him? Milligan, not a resident of one of the rebellious States, or a prisoner of war, but a citizen of Indiana for twenty years past, and never in the military or naval service, is, while at his home, arrested by the military power of the United States, imprisoned, and on certain criminal charges preferred against him, tried, convicted, and sentenced to be hanged by a military commission organized under the direction of the military commander of the military district of Indiana. Had this tribunal the legal power and authority to try and punish this man? No graver question was ever considered by this court, nor one which more nearly concerns the rights of the whole people; for it is the birthright of every American citizen, when charged with crime, to be tried and punished according to law. The power of punishment is alone through the means which the laws have provided for that purpose, and if these are ineffectual, there is an immunity from punishment, no matter how great an offender the individual may be, or how much his crimes may have shocked the sense of justice of the country or endangered its safety. But by the protection of the law human rights are secured; withdrawn that protection, and they are at the mercy of wicked rulers or the clamor of an excited people. If there was law to justify this military trial, it is not our province to interfere; if there was not, it is our duty to declare the nullity of the whole proceedings. The decision of this question does not depend on argument or judicial precedents, numerous and highly illustrative as they are. These precedents inform us of the extent of the struggle to preserve liberty and to relieve those in civil life from military trials. The founders of our Government were familiar with the history of that struggle, and secured in a written constitution every right which the people had wrested from power during a contest of ages. By that Constitution, and the laws authorized by it, this question must be determined. The provisions of that instrument on the administration of criminal justice are too plain and direct to leave room for misconstruc-

tion or doubt of their true meaning. Those applicable to this case are found in that clause of the original Constitution which says, "that the trial of all crimes, except in case of impeachment, shall be by jury," and in the fourth, fifth, and sixth articles of the amendments. The fourth proclaims the right to be secure in person and effects against unreasonable search and seizure; and directs that a judicial warrant shall not issue "without proof of probable cause sup-

ported by oath or affirmation; that no person shall be held to answer for a capital or otherwise infamous crime unless on presentment by a grand jury, except in cases arising in the land or naval forces or in the militia, when in actual service in time of war or public danger, nor be deprived of life, liberty, or property without due process of law." And the sixth guarantees the right of trial by jury in such manner and with such regulations that with upright judges, impartial juries, and an able bar, the innocent will be saved and the guilty punished. It is in these words: "In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation, to be confronted with the witnesses against him to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defence." These securities for personal liberty thus embodied, were such as wisdom and experience had demonstrated to be necessary for the protection of those accused of crime. And so strong was the sense of the country of their importance, and so jealous were the people that these rights, highly prized, might be denied them by implication, that when the original Constitution was proposed or adoption it encountered severe opposition, and, but for the belief that it would be so amended as to embrace them, it would never have been ratified.

Time has proven the discernment of our ancestors; for even these provisions, expressed in such plain English words that it would seem the ingenuity of man could not evade them, are now, after the lapse of more than seventy years, sought to be avoided. Those great and good men foresaw that troublous times would arise, when rulers and people would become restive under restraint, and seek, by sharp and decisive measures, to accomplish ends deemed just and proper, and that the principles of constitutional liberty would be in peril unless established by irrevocable law. The history of the world had taught them that what was done in the past might be attempted in the future. The Constitution of the United States is a law for rulers and people, equally in war and in peace, and covers with its protection, all classes of men, at all times, and under all circumstances. No doctrine involving more pernicious consequences was ever invented by the wit of man that any of its provisions can be suspended during any of the great exigencies of Government. Such a doctrine leads directly to anarchy or despotism, but the theory of necessity of which it is based is false; for the Government, within the Constitution, has all the powers granted to it which are necessary to preserve its existence, as has been happily proved by the result of the great effort to throw off its just authority.

"Have any of the rights guaranteed by the Constitution been violated in the case of Milligan? and if so, what are they? Every trial involves the exercise of judicial power; and from what source did the military commission that tried him derive their authority? Certainly no part of the judicial power of the country was conferred on them, because the Constitution expressly vests it "in one Supreme Court and such inferior courts as the Congress may from time to time ordain and establish," and it is not pretended that the commission was a court ordained and established by Congress. They cannot justify on the mandate of the President, because he is controlled by law, and has his appropriate sphere of duty, which is to execute, not to make the laws; and there is "no unwritten criminal code to which resort can be had as a source of jurisdiction." But it is said

that the jurisdiction is complete under the "laws and usages of war." It can serve no useful purpose to inquire what those laws and usages are, whence they originated, where found, and on whom they operate; they can never be applied to citizens in States which have upheld the authority of the Government, and where the courts are open and the process unobstructed. This court has judicial knowledge that in Indiana the Federal authority was always unopposed.

It is said that no person shall be held to answer for a capital or otherwise infamous crime unless on presentment by a grand jury, except in cases arising in the land or naval forces or in the militia, when in actual service in time of war or public danger, nor be deprived of life, liberty, or property without due process of law." And the sixth guarantees the right of trial by jury in such manner and with such regulations that with upright judges, impartial juries, and an able bar, the innocent will be saved and the guilty punished. It is in these words: "In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation, to be confronted with the witnesses against him to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defence." These securities for personal liberty thus embodied, were such as wisdom and experience had demonstrated to be necessary for the protection of those accused of crime.

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